

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

In re

CLEAN WATER ACT
RULEMAKING.

No. C 20-04636 WHA

No. C 20-04869 WHA

No. C 20-06137 WHA

This Document Relates to:

(consolidated)

ALL ACTIONS.

**CASE MANAGEMENT
SCHEDULING ORDER**

After a case management conference, the Court enters the following order pursuant to Rule 16 of the Federal Rules of Civil Procedure (“FRCP”) and Civil Local Rule 16-10:

1. With the parties’ consent, the three cases:

American Rivers v. Andrew Wheeler, No. C 20-04636 WHA

California v. Andrew Wheeler, No. C 20-04869 WHA

Suquamish Tribe v. Andrew Wheeler, No. C 20-06137 WHA

are hereby consolidated for all purposes.

2. All filings for these cases shall be made under the lowest docket number, No. C 20-04636 WHA, bear the consolidated caption “*In re Clean Water Act Rulemaking*,” and note whether the filing applies to all actions or to a particular case.

3. Plaintiffs shall please ensure their operative complaints, clearly marked by name, are filed on this docket.

4. This consolidation does not prejudice any defense that might be asserted against individual plaintiffs.

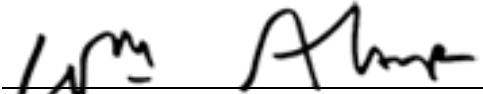
5. Any lawyer who has been admitted *pro hac vice* in any of the above actions need not seek *pro hac vice* admission in any other action — a single *pro hac vice* admission in these consolidated proceedings is sufficient. Any lawyer who has filed a notice of appearance in any of the above actions need not notice an appearance in any other action — a single notice in these consolidated proceedings is sufficient. It is incumbent

- 1 upon the lawyer to ensure his or her appearance is listed in the consolidated
- 2 proceedings for ECF purposes.
- 3 6. As stated at the hearing, this scheduling order largely adopts plaintiffs' proposal.
- 4 However, upon reflection, some minor changes have been made.
- 5 7. The parties already appear to dispute whether the administrative record is complete.
- 6 8. The Administrator shall provide a privilege log to the administrative record.
- 7 a. The Administrator may challenge the scope of this requirement by **OCTOBER 29**
- 8 **AT 5:00 P.M.**
- 9 b. Plaintiffs may respond by **NOVEMBER 5 AT 5:00 P.M.**
- 10 c. Modifying what was stated on the record to allow for resolution of the motion,
- 11 the Administrator shall then serve the privilege log by **NOVEMBER 12.**
- 12 9. The parties shall then meet and confer on their own schedule to narrow or perhaps
- 13 resolve any challenges to the completeness of the administrative record.
- 14 10. By **DECEMBER 24 AT NOON**, plaintiffs shall:
- 15 a. Jointly with defendants notify the Court that the administrative record is
- 16 complete and that summary judgment briefing may commence; or
- 17 b. Challenge the completeness of the administrative record, request
- 18 supplementation, discovery, or other appropriate relief, in a motion not
- 19 exceeding **25 PAGES.**
- 20 11. In the event that plaintiffs challenge the administrative record:
- 21 a. The agency's opposition will be due **JANUARY 28 AT NOON.**
- 22 b. Plaintiffs' reply will be due **FEBRUARY 18 AT NOON.**
- 23 c. The motion will be heard telephonically on **MARCH 4 AT 8:00 A.M.**
- 24 d. A summary judgment briefing schedule will then be set once the undersigned is
- 25 satisfied that the administrative record is complete.
- 26 12. In the event that plaintiffs do not challenge the administrative record:
- 27 a. Plaintiffs shall file their motion for summary judgment, not to exceed **45 PAGES,**
- 28 by **JANUARY 14 AT NOON.**

- b. Defendants shall file their combined opposition and cross motion, not to exceed **45 PAGES**, by **FEBRUARY 11 AT NOON**.
- c. Intervenor defendants shall file their combined opposition and cross motions, **25 PAGES** for the states **25 PAGES** for industry, by **FEBRUARY 25 AT NOON**.
- d. Plaintiffs shall file their combined reply and opposition, not to exceed **55 PAGES**, by **MARCH 11 AT NOON**.
- e. Defendants shall file their reply, not to exceed **25 PAGES**, by **MARCH 25 AT NOON**.
- f. Intervenor defendants shall file their replies, **15 PAGES** for the states and **15 PAGES** for industry, by **APRIL 8 AT NOON**.
- g. The motions shall be heard **APRIL 29 AT 8:00 A.M.**

IT IS SO ORDERED.

Dated: October 22, 2020.



WILLIAM ALSUP
UNITED STATES DISTRICT JUDGE